

IN THE UNITED STATE DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*

State Engineer

Plaintiff,

v.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-KWR/KK

RIO CHAMA STREAM SYSTEM

Section 3: Canjilon Creek

**MOTION FOR ENTRY OF PROPOSED SCHEDULING AND PROCEDURAL
ORDER IN CANJILON CREEK SUBSECTION OF SECTION 3 OF THE RIO CHAMA
STREAM SYSTEM**

The Plaintiff State of New Mexico, *ex rel.* State Engineer (“State”), respectfully requests the Court to enter its Scheduling and Procedural Order to Resolve Objections to Proposed Priority Dates and Irrigation Water Requirements in the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System (“Canjilon Creek Subsection”), attached hereto as Exhibit 1. In support of this motion, Plaintiff states the following:

1) On June 20, 2014, this Court entered its *Scheduling and Procedural Order for Determination of Priority Dates and Irrigation Water Requirements in the Canjilon Subsection of Section 3 of the Rio Chama Stream System* (Doc. 11030), which requires the State to submit a proposed scheduling and procedural order to address and resolve any objections that are filed with the Court.

2) Four parties timely filed objections with the court:

- a. Abelardo E. and Geraldine E. Garcia (“Garcias”) (Doc. 11037, filed 07/29/2014),
 - b. the Asociación de Acéquias Norteñas de Rio Arriba and Five Member Acéquias (“Acéquias Norteñas”) (Doc. 11043, filed 08/22/2014),
 - c. Placido Borrego (Doc. 11044, filed 08/20/2014), and
 - d. Maria Celina Montano (Doc. 11045, filed 08/25/2014).
- 3) Defendant Borrego withdrew their objection on February 12, 2015. (Doc. 11070).
- 4) To move resolution of the remaining objections forward, the State filed its *Motion for Mandatory Pretrial Conference to Address Objection to the State’s Proposed Priority Dates and Irrigation Water Requirements in the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System* (Doc. 11298) on November 9, 2017. The Court denied the State’s motion for a pretrial conference and ordered the State to file a proposed pretrial order by December 20, 2017. *Order Denying Motions for Pretrial Conferences* (Doc. 11303, filed 11/29/2017).
- 5) On November 29, 2017, Defendant Montano withdrew her objection. (Doc. 11302).
- 6) On December 20, 2017, the State filed its *Motion for Entry of Proposed Scheduling and Pretrial Order in the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System* (Doc. 11314). Per the Court’s November 29, 2017, *Order Denying Motions for Pretrial Conferences*, the Garcias and the Acéquias Norteñas had until January 3, 2018, to file responses to the proposed scheduling and pretrial order. (Doc. 11303, pg. 3).
- 7) The Acéquias Norteñas timely filed a response to the State’s motion on January 3, 2018. *See Response of the Asociación de Acéquias Norteñas de Rio Arriba and Five Member Acéquias to Proposed Scheduling and Pretrial Order* (Doc. 11315).

8) The Garcias never filed a response to the State's motion.

9) The Court denied the State's *Motion for Entry of Proposed Scheduling and Pretrial Order in the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System* to allow the Acéquias Norteñas time to confer with individual parcientes and the State regarding their objections. *See Order Denying Motions for Pretrial Orders* (Doc. 11377, filed 03/30/2018). In its denial, the Court stated that "[t]he State may file motions for entry of [a] pretrial order[] for Canjilon Creek after the earlier of (i) September 3, 2018, or (ii) when the Acequias have conferred with the individual water rights owners and the State and Acequias have resolved the irrigation requirements issues." *Id.* at 3.

10) Since the Court's last order in this matter, the State conferred with counsel for Acéquias Norteñas and reached a resolution of Acéquias Norteñas' objections. As a result, Acéquias Norteñas withdrew its objection on May 8, 2023. (Doc. 11639).

11) The Garcias' objection is now the only outstanding objection to the State's proposed priority dates and irrigation water requirements in the Canjilon Creek Subsection.

12) The State has e-mailed, called and written the Garcias in an attempt to contact them and resolve their objection but has not been successful.

13) Because the Garcias never filed a response to the State's proposed pretrial order and the September 3, 2018, deadline set by the Court has passed, the State requests that this Court enter its scheduling and pretrial order in the Canjilon Creek Subsection.

WHEREFORE, the State of New Mexico respectfully requests that the Court enter its Scheduling and Pretrial Order for the Canjilon Creek Subsection of Section 3 of the Rio Chama Stream System.

DATED: May 11, 2023

Respectfully submitted,

/s/ Edward C. Bagley

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 11, 2023, I filed the foregoing electronically through the CM/ECF system, which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served by electronic mail. Additionally, I have mailed a copy of this motion to Abelardo E. and Geraldine E. Garcia at the following address:

Abelardo E. Garcia
Geraldine E. Garcia
P.O. Box 447
Canjilon, NM 87515

/s/ Edward C. Bagley

Edward C. Bagley